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# Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session

## Report of the Sixth Committee

*Rapporteur*: Mr. Tofig **Musayev** (Azerbaijan)

## I. Introduction

1. At its 2nd plenary meeting, on 20 September 2013, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-eighth session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 9th, 10th, 28th and 29th meetings, on 14 and 16 October and on 8 and 15 November 2013. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/68/SR.9, 10, 28 and 29).

3. For its consideration of the item, the Committee had before it the report of the United Nations Commission on International Trade Law on the work of its forty-sixth session (A/68/17).

4. At the 9th meeting, on 14 October, the Chair of the United Nations Commission on International Trade Law at its forty-sixth session introduced the report of the Commission on the work of its forty-sixth session.

## II. Consideration of proposals

### A. Draft resolution A/C.6/68/L.9

5. At the 28th meeting, on 8 November, the representative of Austria, on behalf of Argentina, Armenia, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Chile, Croatia, Cyprus, the Czech Republic, Estonia, Finland, France, Gabon, Georgia, Greece, Guatemala, Hungary, India, Ireland, Israel, Italy, Japan, Jordan, Liechtenstein,

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Lithuania, Luxembourg, Malaysia, Mauritius, Mexico, Montenegro, the Netherlands, New Zealand, Nigeria, Norway, the Philippines, Portugal, the Republic of Korea, Romania, the Russian Federation, Serbia, Singapore, Slovakia, Slovenia, Spain, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela (Bolivarian Republic of), introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session" (A/C.6/68/L.9).

6. At the 29th meeting, on 15 November, Denmark, Germany and Malta joined in sponsoring the draft resolution.

7. At the same meeting, the Committee adopted draft resolution A/C.6/68/L.9 without a vote (see para. 14, draft resolution I).

## B. Draft resolution A/C.6/68/L.10

8. At the 28th meeting, on 8 November, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "Revision of the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency and part four of the UNCITRAL Legislative Guide on Insolvency Law" (A/C.6/68/L.10).

9. At its 29th meeting, on 15 November, the Committee adopted draft resolution A/C.6/68/L.10 without a vote (see para. 14, draft resolution II).

## C. Draft resolution A/C.6/68/L.11

10. At the 28th meeting, on 8 November, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "UNCITRAL Guide on the Implementation of a Security Rights Registry" (A/C.6/68/L.11).

11. At its 29th meeting, on 15 November, the Committee adopted draft resolution A/C.6/68/L.11 without a vote (see para. 14, draft resolution III).

## D. Draft resolution A/C.6/68/L.12

12. At the 28th meeting, on 8 November, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013)" (A/C.6/68/L.12).

13. At its 29th meeting, on 15 November, the Committee adopted draft resolution A/C.6/68/L.12 without a vote (see para. 14, draft resolution IV).

# III. Recommendations of the Sixth Committee

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

## Draft resolution I
## Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session

*The General Assembly*,

*Recalling* its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

*Reaffirming its belief* that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

*Having considered* the report of the Commission,[1]

*Reiterating its concern* that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

*Reaffirming* the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law;[1]

2. *Commends* the Commission for the finalization and adoption of the Rules on Transparency in Treaty-based Investor-State Arbitration,[2] the Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013),[3] the Guide on

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[1] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17).

[2] Ibid., chap. III and annex I.

[3] Ibid., chap. III and annex II.

the Implementation of a Security Rights Registry,[4] the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency,[5] part four of the *Legislative Guide on Insolvency Law*, on the obligations of directors in the period approaching insolvency,[6] the guidance on procurement regulations to be promulgated in accordance with article 4 of the Model Law on Public Procurement[7] and the glossary of procurement-related terms used in the Model Law on Public Procurement,[7] as well as for the updating of the Model Law on Cross-Border Insolvency: The Judicial Perspective;[8]

3. *Recognizes* the opinion expressed by the Commission that the secretariat of the Commission should fulfil the role of a repository of published information under the Rules on Transparency in Treaty-based Investor-State Arbitration ("transparency repository"),[9] invites the Secretary-General to consider performing, in accordance with article 8 of the Rules on Transparency, the role of the transparency repository through the secretariat of the Commission, and requests the Secretary-General to report to the General Assembly and the Commission in this regard;

4. *Takes note with interest* of the decisions taken by the Commission as regards its future work and the progress made by the Commission in its work in the areas of arbitration and conciliation, online dispute resolution, electronic commerce, insolvency law, security interests, international trade law aimed at reducing the legal obstacles faced by micro-, small- and medium-sized enterprises throughout their life cycle and public-private partnerships, and commends in particular the efforts undertaken by the Commission to improve the management of its resources while maintaining and increasing its current levels of activity, including through the use of informal working methods where appropriate, with due regard to the formal negotiation process;[10]

5. *Notes with appreciation* the projects of the Commission aimed at promoting the uniform and effective application of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), done at New York on 10 June 1958,[11] including the preparation of a guide on the Convention, in close cooperation with international experts, to be submitted to the Commission at a future session for its consideration;[12]

6. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote

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[4] Ibid., chap. IV.
[5] Ibid., chap. V, sect. A.
[6] Ibid., sect. B.
[7] Ibid., chap. VI.
[8] Ibid., chap. V, sect. C.
[9] Ibid., para. 80.
[10] Ibid., chaps. III-V, VII, VIII and XV.
[11] United Nations, *Treaty Series*, vol. 330, No. 4739.
[12] See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), chap. III, sect. E.

efficiency, consistency and coherence in the modernization and harmonization of international trade law;

7. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical cooperation and assistance in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical cooperation and assistance programme, and in that respect encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(b) Expresses its appreciation to the Commission for carrying out technical cooperation and assistance activities and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical cooperation and assistance activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, for the financing of special projects and otherwise to assist the secretariat of the Commission in carrying out technical cooperation and assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical cooperation and assistance programme of the Commission and to cooperate with the Commission and coordinate their activities with those of the Commission in the light of the relevance and importance of the work and programmes of the Commission for the promotion of the rule of law at the national and international levels and for the implementation of the international development agenda, including the achievement of the Millennium Development Goals;

8. *Recalls* the importance of adherence to the rules of procedure and methods of work of the Commission, including transparent and inclusive deliberations, taking into account the summary of conclusions as reproduced in annex III to the report on the work of its forty-third session,[13] requests the Secretariat to issue, prior to meetings of the Commission and of its working groups, a reminder of those rules of procedure and methods of work with a view to ensuring the high quality of the work of the Commission and encouraging the assessment of its instruments, and in this regard recalls its previous resolutions related to this matter;

9. *Welcomes* the activities of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific, in the Republic of Korea, towards reaching out and providing technical assistance with international trade law reforms to developing countries in the region, notes with satisfaction expressions of interest from other States in hosting regional centres of the Commission, and

[13] Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17).

requests the Secretary-General to keep the General Assembly informed of developments regarding the establishment of regional centres, in particular their funding and budgetary situation;[14]

10. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the Trust Fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, in order to enable renewal of the provision of that assistance and to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in those countries to put in place a regulatory and enabling environment for business, trade and investment;

11. *Decides*, in order to ensure full participation of all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-eighth session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

12. *Endorses* the conviction of the Commission that the implementation and effective use of modern private law standards in international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that the promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General;

13. *Notes* the rule of law panel discussion held at the forty-sixth session of the Commission and the comments transmitted by the Commission highlighting its role in promoting the rule of law and the peaceful settlement of international disputes through its work in the areas of arbitration and conciliation, transparency in investor-State dispute resolution and online dispute resolution and its work towards achieving universal accession to, and the effective implementation and uniform interpretation and application of, the New York Convention;[15]

14. *Notes with satisfaction* that, in paragraph 8 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted by consensus as resolution 67/1 of 24 September 2012, Member States recognized the importance of fair, stable and predictable legal frameworks for generating inclusive, sustainable and equitable development, economic growth and employment, generating investment and facilitating entrepreneurship and, in this regard, commended the work of the Commission in modernizing and harmonizing international trade law and that, in paragraph 7 of the declaration, Member States expressed their conviction that the rule of law and development were strongly interrelated and mutually reinforcing;

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[14] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), chap. XIII.

[15] Ibid., chap. XIV, sect. C.

15. *Reiterates its request* to the Secretary-General, in conformity with resolutions of the General Assembly on documentation-related matters,[16] which, in particular, emphasize that any invitation to limit, where appropriate, the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and functions of the Commission in the progressive development and codification of international trade law when implementing page limits with respect to the documentation of the Commission;[17]

16. *Requests* the Secretary-General to continue the publication of Commission standards and the provision of summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts, and takes note of the Commission's decision to continue the trial use of digital recordings, in parallel with summary records where applicable, with a view to assessing at its forty-seventh session, in 2014, the experience of using digital recordings and, on the basis of that assessment, taking a decision regarding the possible replacement of summary records by digital recordings;[18]

17. *Recalls* paragraph 48 of its resolution 66/246 of 24 December 2011 regarding the rotation scheme of meetings between Vienna and New York;

18. *Notes with appreciation* the work of the Secretariat on the system for the collection and dissemination of case law on Commission texts in the six official languages of the United Nations (the CLOUT system), notes the resource-intensive nature of the system, acknowledges the need for further resources to sustain and expand it, and in this regard welcomes efforts by the Secretariat towards building partnerships with interested institutions, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to assist the secretariat of the Commission in raising awareness as to the availability and usefulness of the CLOUT system in professional, academic and judiciary circles and in securing the funding required for the coordination and expansion of the system and the establishment, within the secretariat of the Commission, of a pillar focused on the promotion of ways and means of interpreting Commission texts in a uniform manner;

19. *Stresses* the importance of promoting the use of texts emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to conventions, enacting model laws and encouraging the use of other relevant texts;

20. *Welcomes* the continued work of the Secretariat on digests of case law related to Commission texts, including their wide dissemination, as well as the continuing increase in the number of abstracts available through the CLOUT system, in view of the role of the digests and the CLOUT system as important tools for the promotion of the uniform interpretation of international trade law, in particular by

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[16] Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

[17] Resolutions 59/39, para. 9, and 65/21, para. 18; see also *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 124-128.

[18] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), para. 341.

building local capacity of judges, arbitrators and other legal practitioners to interpret those standards in the light of their international character and the need to promote uniformity in their application and the observance of good faith in international trade.

## Draft resolution II
## Revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency and part four of the Legislative Guide on Insolvency Law of the United Nations Commission on International Trade Law

### A. Revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency

*The General Assembly*,

*Recalling* its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

*Recalling also* its resolution 52/158 of 15 December 1997, in which it recommended the use of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law, contained in the annex thereto,

*Noting* that legislation based upon the Model Law on Cross-Border Insolvency has been enacted in some 20 States,

*Noting also* the widespread increase in the incidence of cross-border insolvency proceedings and, accordingly, the growing opportunities for use and application of the Model Law on Cross-Border Insolvency in cross-border insolvency proceedings and the development of international jurisprudence interpreting its provisions,

*Noting further* that courts frequently have reference to the Guide to Enactment of the Model Law on Cross-Border Insolvency for guidance on the background to the drafting and interpretation of its provisions,

*Recognizing* that some uncertainty with respect to the interpretation of certain provisions of the Model Law on Cross-Border Insolvency has emerged in the jurisprudence arising from its application in practice,

*Convinced* of the desirability, in the interpretation of those provisions, of regard to the international origin of the Model Law on Cross-Border Insolvency and the need to promote uniformity in its application,

*Convinced also* of the desirability of providing additional guidance through revision of the Guide to Enactment of the Model Law on Cross-Border Insolvency with respect to the interpretation and application of selected aspects of the Model Law to facilitate uniform interpretation,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for revising the Guide to Enactment of the Model Law on Cross-Border Insolvency;

2. *Requests* the Secretary-General to publish, including electronically, the text of the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency, together with the text of the Model Law on Cross-Border Insolvency,[1] and

[1] Resolution 52/158, annex.

to transmit it to Governments and interested bodies, so that it becomes widely known and available;

3. *Recommends* that the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency be given due consideration, as appropriate, by legislators, policymakers, judges, insolvency practitioners and other individuals concerned with cross-border insolvency laws and proceedings;

4. *Also recommends* that all States continue to consider implementation of the Model Law on Cross-Border Insolvency, and invites States that have enacted legislation based upon the Model Law to advise the Commission accordingly.

## B. Part four of the Legislative Guide on Insolvency Law

*The General Assembly*,

*Recalling* its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

*Recalling also* its resolutions 59/40 of 2 December 2004, in which it recommended the use of the *Legislative Guide on Insolvency Law* of the United Nations Commission on International Trade Law,[2] and 65/24 of 6 December 2010, in which it recommended the use of part three of the *Guide*, on the treatment of enterprise groups in insolvency,

*Considering* that effective insolvency regimes, in addition to providing a predictable legal process for addressing the financial difficulties of troubled enterprises and the necessary framework for their efficient reorganization or orderly liquidation, should also permit an examination to be made of the circumstances giving rise to insolvency and, in particular, of the conduct of directors of such an enterprise in the period before insolvency proceedings commence,

*Noting* that the *Legislative Guide*, while addressing the obligations of directors of an enterprise once insolvency proceedings commence, does not address the conduct of directors in the period approaching insolvency and the obligations that might be applicable to directors in that period,

*Considering* that the provision of incentives for directors to take timely action to address the effects of financial distress experienced by an enterprise may be key to its successful reorganization or liquidation and that such incentives should be part of an effective insolvency regime,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for developing and adopting part four of the *Legislative Guide on Insolvency Law*, addressing the obligations of directors of an enterprise in the period approaching the insolvency of that enterprise;[3]

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[2] United Nations publication, Sales No. E.05.V.10.

[3] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), chap. V, sect. B.

2. *Requests* the Secretary-General to publish, including electronically, the text of part four of the *Legislative Guide* and to transmit it to Governments and other interested bodies;

3. *Recommends* that all States utilize the *Legislative Guide* to assess the economic efficiency of their insolvency law regimes and give favourable consideration to the *Guide* when revising or adopting legislation relevant to insolvency, and invites States that have used the *Guide* to advise the Commission accordingly.

## Draft resolution III
## United Nations Commission on International Trade Law Guide on the Implementation of a Security Rights Registry

*The General Assembly*,

*Recognizing* the importance to all States of efficient secured transactions regimes in promoting access to affordable secured credit,

*Recognizing also* that access to affordable secured credit is likely to assist all countries, in particular developing countries and countries with economies in transition, in their efforts to achieve economic growth, sustainable development, the rule of law and financial inclusion,

*Recalling* its resolution 63/121 of 11 December 2008, in which it recommended that all States give favourable consideration to the *Legislative Guide on Secured Transactions* of the United Nations Commission on International Trade Law[1] when revising or adopting legislation relevant to secured transactions,

*Recognizing* that an efficient secured transactions regime with a publicly accessible security rights registry of the kind recommended in the *Legislative Guide on Secured Transactions* is likely to increase access to affordable secured credit,

*Noting with satisfaction* that the United Nations Commission on International Trade Law Guide on the Implementation of a Security Rights Registry[2] is consistent with and usefully supplements the *Legislative Guide on Secured Transactions* and that the two Guides, together, will provide comprehensive guidance to States with respect to legal and practical issues that need to be addressed when implementing a modern secured transactions regime,

*Noting* that secured transactions law reform could not be effectively implemented without the establishment of an efficient, publicly accessible security rights registry where information about the potential existence of a security right in movable assets may be registered and that States urgently need guidance with respect to the establishment and operation of such registries,

*Taking into account* that the harmonization of national security rights registries on the basis of the Guide on the Implementation of a Security Rights Registry is likely to increase the availability of credit across national borders and thus facilitate the development of international trade, which, if achieved on the basis of equality and mutual benefit to all States, is an important element in promoting friendly relations among States,

*Expressing its appreciation* to intergovernmental and international non governmental organizations active in the field of secured transactions law reform for their participation in and support for the development of the Guide on the Implementation of a Security Rights Registry,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for the completion and adoption of the Guide on the Implementation of a Security Rights Registry;[2]

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[1] United Nations publication, Sales No. E.09.V.12.

[2] See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), chap. IV.

2. *Requests* the Secretary-General to publish the Guide on the Implementation of a Security Rights Registry, including through electronic means, and to disseminate it broadly to Governments and other interested bodies such as national and international financial institutions and chambers of commerce;

3. *Recommends* that all States give favourable consideration to the Guide on the Implementation of a Security Rights Registry when revising relevant legislation, administrative regulations or guidelines and to the *Legislative Guide on Secured Transactions* of the Commission[1] when revising or adopting legislation relevant to secured transactions, and invites States that have used the Guides to advise the Commission accordingly;

4. *Also recommends* that all States continue to consider becoming parties to the United Nations Convention on the Assignment of Receivables in International Trade,[3] the principles of which are reflected in the *Legislative Guide on Secured Transactions* and the optional annex to which refers to the registration of data with regard to assignments.

[3] Resolution 56/81, annex.

## Draft resolution IV
## United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013)

*The General Assembly*,

*Recalling* its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

*Recognizing* the value of arbitration as a method of settling disputes that may arise in the context of international relations and the wide use of arbitration for the settlement of treaty-based investor-State disputes,

*Recalling* its resolutions 31/98 of 15 December 1976 and 65/22 of 6 December 2010, in which it recommended the use of the Arbitration Rules of the United Nations Commission on International Trade Law,[1]

*Bearing in mind* that the Arbitration Rules are widely used for the settlement of treaty-based investor-State disputes,

*Recognizing* the need for provisions on transparency in the settlement of such treaty-based investor-State disputes to take account of the public interest involved in such arbitrations,

*Believing* that rules on transparency in treaty-based investor-State arbitration would contribute significantly to the establishment of a harmonized legal framework for a fair and efficient settlement of international investment disputes, increase transparency and accountability and promote good governance,

*Noting* that the Commission, at its forty-sixth session, adopted the Rules on Transparency in Treaty-based Investor-State Arbitration[2] and amended the Arbitration Rules as revised in 2010 to include, in a new article 1, paragraph 4, a reference to the Rules on Transparency,[3]

*Noting also* that the Rules on Transparency are available for use in investor-State arbitrations initiated under rules other than the Arbitration Rules or in ad hoc proceedings,

*Noting further* that the preparation of the Rules on Transparency was the subject of due deliberation in the Commission and that they benefited from consultations with Governments and interested intergovernmental and international non-governmental organizations,

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[1] *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17* (A/31/17), chap. V, sect. C; and ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), chap. III and annex I.

[2] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), chap. III and annex I.

[3] Ibid., chap. III and annex II.

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for having prepared and adopted the Rules on Transparency in Treaty-based Investor-State Arbitration[2] and the Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013),[3] as annexed to the report of the Commission on the work of its forty-sixth session;[4]

2. *Requests* the Secretary-General to publish, including electronically, and disseminate broadly the text of the Rules on Transparency, both together with the Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013) and as a stand-alone text, and to transmit them to Governments and organizations interested in the field of dispute settlement;

3. *Recommends* the use of the Rules on Transparency in relation to the settlement of investment disputes within the scope of their application as defined in article 1 of the Rules, and invites Member States that have chosen to include the Rules in their treaties to inform the Commission accordingly;

4. *Also recommends* that, subject to any provision in relevant treaties that may require a higher degree of transparency than that provided in the Rules on Transparency, the Rules be applied through appropriate mechanisms to investor-State arbitration initiated pursuant to treaties providing for the protection of investors or investments concluded before the date of coming into effect of the Rules, to the extent that such application is consistent with those treaties.

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[4] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17).